

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY DALE, BRETT JACKSON,
JOHNNA FOX, BENJAMIN
BORROWMAN, ANN LAMBERT,
ROBERT ANDERSON, and CHAD
HOHENBERY on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

DEUTSCHE TELEKOM AG, T-MOBILE
US, INC., and SOFTBANK GROUP
CORP.,

Defendants.

Case No. 1:22-cv-03189

Hon. Thomas M. Durkin

Hon. Jeffrey Cole

JOINT STATUS REPORT

Pursuant to this Court's November 3, 2023 Order (ECF No. 115), Plaintiffs and Defendant T-Mobile US, Inc. ("T-Mobile" and, together, "the parties") file this Joint Status Report.

I. The Nature of the Case

Attorneys of Record for Each Party. Attorneys of record for Plaintiffs are Brendan P. Glackin (lead trial attorney), Lin Y. Chan, Nicholas W. Lee, Sarah D. Zandi, and Jules A. Ross of Lieff Cabraser Heimann & Bernstein, LLP; Gary I. Smith, Jr. and Marcus Hill Brakefield of Hausfeld LLP.; Eric L. Cramer and Robert E. Litan of Berger Montague PC; and Joel A. Flaxman and Kenneth N. Flaxman of Kenneth N. Flaxman, P.C.

Attorneys of record for T-Mobile are Rachel S. Brass, Daniel G. Swanson, Rodney J. Stone, Josh Krevitt, and Theodore J. Boutrous, Jr. of Gibson, Dunn & Crutcher LLP; Brian Smith, Clifford Histed, and Michael Martinez of K&L Gates LLP.

Basis for Federal Jurisdiction. This Court has subject matter jurisdiction over this action pursuant to Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26, and 28 U.S.C. §§ 1331, 1337.

Nature of Claims. As this Court summarized, “Plaintiffs, representing a proposed class of AT&T and Verizon customers, filed this suit under the federal antitrust statutes challenging the April 2020 merger between T-Mobile and Sprint.” ECF No. 114 at 1. There are no counter-claims. Plaintiffs request treble damages for overcharges, injunctive relief to remediate the anticompetitive effects of the merger, as well as an award of attorneys’ fees and expenses.

II. Pending Motions and Case Plan

Pending Motions. Plaintiffs anticipate filing a motion to appoint interim co-lead counsel. T-Mobile takes no position on this motion and does not anticipate filing a response. T-Mobile intends to file a motion seeking interlocutory review of the motion to dismiss order pursuant to 28 U.S.C. 1292(b). The parties agree on the following schedule: T-Mobile’s motion to be filed November 28, 2023; Plaintiffs’ opposition to be filed on December 14, 2023, and T-Mobile’s reply to be filed on December 22, 2023.

General Type of Discovery Needed. The parties held a Rule 26(f) conference on November 10, 2023. The parties expect a wide range of party discovery, including e-mails, text messages, general documents, interrogatories, requests for admission, non-custodial data, and depositions. It will be necessary to obtain discovery from third parties, including from AT&T, Verizon, and others.

The parties agree to the following discovery deadlines:

- Date to first issue written discovery: November 13, 2023;
- Deadline to amend pleadings: October 24, 2024;
- Discovery completion date: November 13, 2025.

Plaintiffs also respectfully suggest that, beginning in 2024, it would be advantageous for this

Court to order a status conference every 60 days to ensure the efficient resolution of this action and adherence to the proposed case schedule. Seven days prior to each status conference, the parties will file a joint status report on the progress of discovery and any other pertinent matters. Defendant T-Mobile believes this proposal is premature, and that it encourages the parties to present disputes to the Court, rather than to seek resolution without Court intervention.

Expert Discovery Relevant to Dispositive Liability Motions. The parties are meeting and conferring about an expert discovery schedule and have agreed to present any remaining disputes regarding that schedule in their joint Rule 16 report, to be filed on January 24, 2024 unless otherwise ordered. At this point, the parties agree that expert discovery relevant to damages overlaps with issues to be litigated at class certification and with expert merits discovery and that deferring such discovery is not practical given the nature of Plaintiffs' claims.

E-Discovery. Discovery will encompass electronically stored information (ESI). The parties outlined their plan in an ESI protocol submitted to the Court on October 16, 2023, which has not yet been ruled upon. Plaintiffs anticipate ESI disputes arising out of non-party discovery, which may require litigation outside of the Northern District of Illinois. T-Mobile also notes that discoverable ESI will likely include confidential non-party information subject to notification requirements and possible objections to production by those non-parties.

Jury Trial Requested. Plaintiffs request a jury trial. The parties believe the probable trial length ranges from fifteen to thirty trial days, but reserve rights to modify their positions.

III. Consent to Proceed Before a Magistrate Judge

The parties do not consent to proceed before a Magistrate Judge for all matters in the case, including dispositive motions and trial.

IV. Status of Settlement Discussions

The parties have not engaged in settlement discussions due to the uncertainty of damages,

and do not believe such discussions would be productive at this time. Should this change, the parties will inform the Court.

Dated: November 28, 2023

/s/ Brendan P. Glackin

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CERTIFICATE OF SERVICE

I, Brendan P. Glackin, an attorney, hereby certify that this **Joint Status Report** was electronically filed on November 28, 2023 and will be served electronically via the Court's ECF Notice system upon the registered parties of record.

Respectfully submitted,

/s/ Brendan P. Glackin

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